MONTANA LEGISLATIVE HISTORY

Chapter 140 19 77

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Hearing Date(s) 3-10	✓ C	Hearing Date(s) 1-11	✓ C
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Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

SENATE BILL NO. 2

INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO ENVIRONMENTAL PROTECTION; AMENDING SECTIONS 26-1514, 26-1517, 32-4728, 69-3911, 69-3912, 69-3914, 69-3915, 69-3916, 69-3917, 69-4820.1, 69-4824, 69-5003, 69-5602, 69-5603, 69-5607, 69-5803, 69-5806, 69-6807, AND 69-6811, R.C.M. 1947; AND REPEALING SECTION 26-339, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 26-1514, R.C.M. 1947, is amended to read as follows:

"26-1514. Procedure for considering projects — team. (1) The supervisors shall receive all notices of proposed projects within their district. They shall, within ~~five (5)~~ days of receipt of a notice, examine and investigate the notice and determine whether the proposal is for a project. ~~They~~ Within the 5 days, they shall~~, within such period,~~ send a copy of their determination to the department and the applicant. If the supervisors determine that the proposal is not a project, the applicant may, upon receipt of written notice, proceed with the proposed activity.

(2) If the supervisors determine that the proposal is for a project, the department shall, within ~~five (5)~~ days of receipt of ~~each~~ the determination, notify the supervisors whether the department requests an on-site inspection by a team.

(3) The supervisors shall call a team together within ~~twenty (20)~~ days of receipt of the request of the department for an on-site inspection. ~~Any~~ A member of the team shall notify the supervisors in writing, within ~~five (5)~~ days after notice of the call for an inspection, of his waiver of participation in the inspection. If the department does not request an on-site inspection within the time specified above, the supervisors may deny or approve the project or may make recommendations for alternative plans.

(4) Each member of the team shall recommend, in writing, within ~~fifty (50)~~ days of the date of application, denial, approval, or modification of the project to the supervisors. The applicant may waive participation in this recommendation.

(5) The supervisors shall review the proposed project and affirm, overrule, or modify the individual team recommendations, and notify the applicant and team members, within ~~sixty (60)~~ days of the date of application, of their decision.

(6) When a member of the team disagrees with the supervisors' action, he may ask, within ~~five (5)~~ days of

receipt of the supervisors' decision, that an arbitration panel, as provided in ~~section~~ 26-1515, be appointed to hear the dispute and make a final written decision thereon.

(7) Upon written notice, with ~~any~~ a recommendation or alternative plan, by the supervisors to the applicant, the applicant, within ~~fifteen (15)~~ days, shall notify the supervisors in writing if he wishes to proceed with the project in accordance with the recommendations or alternative plans. No work may be commenced on a project ~~prior to~~ before the ~~expiration~~ end of this ~~fifteen (15)~~ -day period unless written permission is given by all team members. If the written decision of the supervisors approves the proposed project without recommendation or alternative plan, the applicant may proceed with the project upon the expiration of ~~ten (10)~~ days after receipt of the decision.

(8) The supervisors may extend, upon the request of ~~any~~ a team member, the time limits provided in ~~section 26-1514~~ subsections (4) and (5) where, in their determination, the time provided is not sufficient to carry out the purposes of this act. The time extension may not, in total, exceed ~~one (1)~~ year from date of application. The applicant shall be notified, within ~~sixty (60)~~ days of date of application, of the initial time extension and shall be notified immediately of any subsequent time extensions.

(9) No work on a project under this act may take place

without the written consent of the supervisors."

Section 2. Section 26-1517, R.C.M. 1947, is amended to read as follows:

"26-1517. Emergencies -- procedure. (1) The provisions of this act ~~shall~~ do not apply to those actions which are necessary to safeguard life or property, including growing crops, during periods of emergency. The person responsible for ~~any~~ a project under this section shall notify the supervisors in writing within ~~fifteen (15)~~ days of the action taken as a result of an emergency.

(2) The supervisors shall send one ~~(1)~~ copy of the notice, within ~~five (5)~~ days of its receipt, to the department.

(3) A team, called together as described in ~~section~~ 26-1514 (3), shall make an on-site inspection and individual written reports to the supervisors within ~~thirty (30)~~ days giving their observations and opinions on the emergency project.

(4) If the same or a similar emergency occurs to the same applicant more than once within ~~any~~ a ~~five (5)~~ -year period, the supervisors shall request the team members to include in their reports a determination of the validity of the emergency action and to ascertain the feasibility of a more permanent solution to ~~that~~ the emergency ~~action~~.

(5) The supervisors shall determine the feasibility of

a more permanent solution and shall recommend, within ~~thirty (30)~~ days, that the person put the solution into effect within a reasonable period of time, as determined by the supervisors. Failure of the person to put that solution into effect is not a violation of this act unless a subsequent emergency action results from this failure.

(6) When a member of the team or the applicant disagrees with the supervisors' recommendation, he may ask that an arbitration panel, as provided in ~~section~~ 26-1515, be appointed to hear the dispute and make a final written decision thereon."

Section 3. Section 32-4728, R.C.M. 1947, is amended to read as follows:

"32-4728. Nonconforming advertising as nuisance. All outdoor advertising which does not conform to the requirements of this act ~~are~~ is a public ~~nuisances~~ nuisance."

Section 4. Section 69-3911, R.C.M. 1947, is amended to read as follows:

"69-3911. Permits. (1) The board may, by rule ~~or regulations,~~ prohibit the construction, installation, alteration, or use of ~~any~~ a machine, equipment, device, or facility which it finds may directly or indirectly cause or contribute to air pollution or which is intended primarily to prevent or control the emission of air pollutants, unless

a permit therefor has been obtained ~~from it~~.

(2) Not later than ~~one hundred eighty (180)~~ days ~~prior to the time that~~ before construction begins and not later than ~~one hundred twenty (120)~~ days ~~prior to the time that~~ before installation, alteration, or use ~~commences~~ begins, the owner or operator shall file with the department the appropriate permit application on forms available from the department.

(3) ~~Notwithstanding anything contained in subsection (2), the~~ The department may, for good cause shown, waive the provisions of subsection (2) or shorten the time required for filing the appropriate applications.

(4) The department shall require that applications for permits be accompanied by any plans, specifications, and other information it ~~deems~~ considers necessary.

(5) An application is not considered filed until the applicant has submitted all information and completed all application forms required by subsections (2), (3), and (4). However, if the department fails to notify the applicant in writing, within ~~thirty (30)~~ days after the purported filing of an application, that the application is incomplete and fails to list the reasons why the application is considered incomplete, the application is considered filed as of the date of the purported filing.

(6) The department shall provide for the issuance,

suspension, revocation, and renewal of ~~any permits~~ a permit issued under this section.

~~(7)~~ Where an application for a permit requires the compilation of an environmental impact statement under the Montana Environmental Policy Act, the department shall notify the applicant in writing, within ~~one hundred eighty (180)~~ days of the receipt of a filed application as defined in subsection (5), ~~in writing,~~ of the approval or denial of the application. However, where an application does not require the compilation of an environmental impact statement, the department shall notify the applicant in writing, within ~~sixty (60)~~ days of the receipt of a filed application, as defined in subsection (5), ~~in writing,~~ of the approval or denial of the application.

~~(8)~~ When the department approves or denies the application for a permit under this section, ~~any~~ a person ~~or persons~~ who is jointly or severally adversely affected by the department's decision may request, within ~~fifteen (15)~~ days after the department renders its decision, upon affidavit, setting forth the grounds therefor, a hearing before the board. A hearing shall be held under the provisions of the Montana Administrative Procedure Act. The department's decision on the application is not final unless ~~fifteen (15)~~ days have elapsed and there is no request for a hearing under this section. The filing of a request for a

hearing postpones the effective date of the department's decision until the conclusion of the hearing and issuance of a final decision by the board."

Section 5. Section 69-3912, R.C.M. 1947, is amended to read as follows:

"69-3912. Inspections. (1) The department may enter and inspect, at any reasonable time, any property, premises, or place, except a private residence, on or at which an air contaminant source is located or is being constructed or installed for the purpose of ascertaining the state of compliance with this act and rules in force under it.

(2) A person may not refuse entry or access to an authorized representative of the department ~~who presents appropriate credentials~~ when ~~it~~ the department requests entry for purposes of inspection, ~~and who presents appropriate credentials.~~ A person may not obstruct, hamper, or interfere with an inspection.

(3) At his request, the owner or operator of the premises shall receive a report ~~setting forth~~ stating all facts found which relate to compliance status."

Section 6. Section 69-3914, R.C.M. 1947, is amended to read as follows:

"69-3914. Enforcement. (1) When the department ~~has reason to believe~~ believes that a violation of this act or a rule made under it has occurred, it may cause written notice

to be served on the alleged violator. The notice shall specify the provision of this act or rule alleged to be violated, and the facts alleged to constitute a violation, and may include an order to take necessary corrective action within a reasonable period of time stated in the order. The order becomes final unless, within ~~no later than thirty (30)~~ days after ~~the date~~ the notice is received, the person named requests in writing a hearing before the board. On receipt of the request, the board shall hold a hearing.

(2) If, after a hearing held under subsection (1) of this section, the board finds that violations have occurred, it shall either affirm or modify an order previously issued, or issue an appropriate order for the prevention, abatement, or control of the emissions involved or for the taking of other corrective action it considers appropriate. If, after hearing on an order contained in a notice, the board finds that no violation is occurring, it shall rescind the order. An order issued as part of a notice or after a hearing may prescribe the date by which the violation shall cease and may prescribe time limits for particular action in preventing, abating, or controlling the emissions.

(3) Instead of issuing the order provided for in subsection (1) ~~of this section~~, the department may either:

(a) ~~Require~~ require that the alleged violators appear before the board for a hearing at a time and place specified

in the notice, and answer the charges complained of; or

(b) ~~Initiate~~ initiate action under ~~section~~ 69-3921 or 69-3921.1.

(4) This chapter does not prevent the board or department from making efforts to obtain voluntary compliance through warning, conference, or any other appropriate means.

(5) In connection with a hearing held under this section, the board may, and on application by a party shall, compel the attendance of witnesses and the production of evidence on behalf of the parties."

Section 7. Section 69-3915, R.C.M. 1947, is amended to read as follows:

"69-3915. Emergency procedure. (1) Any other law to the contrary notwithstanding, if the department finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the department shall order persons causing or contributing to the air pollution to immediately reduce or discontinue ~~immediately~~ the emission of air contaminants. Upon issuance of this order, the department shall fix a place and time within ~~, not later than twenty-four (24) hours thereafter,~~ for a hearing to be held before the board. ~~Not more than twenty-four~~ Within (24) hours after the commencement of the hearing, and without

adjournment, the board shall affirm, modify, or set aside the order of the department.

(2) In the absence of a generalized condition such as that referred to in subsection (1) ~~of this section~~, if the department finds that emissions from the operation of one ~~(1)~~ or more air contaminant sources ~~is~~ are causing imminent danger to human health or safety, it may order the person ~~or persons~~ responsible for the operation ~~or operations~~ in question to reduce or discontinue emissions immediately, without regard for ~~section~~ 69-3914. In this event, the requirements for hearing, and affirmance, modification, or setting aside of orders ~~set forth~~ as provided in subsection (1) ~~of this section~~ apply.

(3) This section does not limit any power which the governor or any other officer may have to declare an emergency and act on the basis of this declaration, whether the power is conferred by statute, or constitutional provisions, or inheres in the office."

Section 8. Section 69-3916, R.C.M. 1947, is amended to read as follows:

"69-3916. Variances -- filing fees. (1) ~~Any~~ A person who owns or is in control of ~~any~~ a plant, building, structure, process, or equipment may apply to the board for an exemption or partial exemption from rules ~~or regulations~~ governing the quality, nature, duration, or extent of

emissions of air pollutants. The application shall be accompanied by such information and data as the board may require. The board may grant ~~such~~ an exemption or partial exemption if it finds that:

(a) ~~the~~ the emissions occurring or proposed to occur do not constitute a danger to public health or safety; and

(b) ~~Compliance~~ compliance with the rules ~~or regulations~~ from which exemption is sought would produce hardship without equal or greater benefits to the public.

(2) No exemption or partial exemption ~~shall~~ may be granted pursuant to this section except after public hearing on due notice and until the board has considered the relative interests of the applicant, other owners or property likely to be affected by the emissions, and the general public.

(3) No exemption or partial exemption pursuant to this section ~~shall~~ may be granted for a period to exceed ~~one (1)~~ year, but ~~any such~~ the exemption or partial exemption may be renewed for like periods if no complaint is made to the board ~~on account thereof~~ because of it or if, ~~such~~ after the complaint ~~having~~ has been made and duly considered at a public hearing held by the board on due notice, the board finds that renewal is justified. No renewal ~~shall~~ may be granted except on application therefor. ~~Any such~~ An application shall be made at least ~~sixty (60)~~ days ~~prior to~~

before the expiration of the exemption or partial exemption. Immediately ~~prior to~~ before application for renewal the applicant shall give public notice of ~~such~~ his application in accordance with rules ~~and regulations~~ of the board. ~~Any~~ A renewal pursuant to this subsection shall be on the same grounds and subject to the same limitations and requirements as provided in subsection ~~(1) (a) of this section~~.

(4) An exemption, partial exemption, or renewal thereof ~~shall~~ is not ~~be~~ a right of the applicant or holder thereof but shall be granted in the discretion of the board. However, ~~any~~ a person adversely affected by an exemption, partial exemption, or renewal granted by the board may obtain judicial review thereof as provided by ~~section~~ 69-3917 ~~of this act~~.

(5) Nothing in this section and no exemption, partial exemption, or renewal granted pursuant ~~hereto shall~~ to this section may be construed to prevent or limit the application of the emergency provisions and procedures of ~~section~~ 69-3915 ~~of this act~~ to ~~any~~ a person or his property.

(6) ~~Any~~ A person who owns or is in control of ~~any~~ a plant, building, structure, process, or equipment (hereinafter called a facility) who applies to the board for an exemption or partial exemption or a renewal of an exemption or partial exemption from ~~any~~ a rule governing the quality, nature, duration, or extent of emissions of air

pollutants shall submit with the application for variance a sum of not less than ~~five hundred dollars ($500)~~ or ~~two percent (2%)~~ of the cost of the equipment to bring the facility into compliance with the rule ~~(a)~~ for which a variance is sought, whichever is greater, but not to exceed ~~eighty thousand dollars ($80,000)~~. The department shall prepare a statement of actual costs, and ~~any~~ funds in excess of this shall be returned to the applicant. ~~The value of any fee in excess of five hundred dollars ($500) shall be calculated by determining the cost of the equipment required to bring the facility into compliance with the rule (a) for which the variance is being sought.~~ The person requesting the variance shall describe the facility in sufficient detail, with accompanying estimates of cost and verifying materials, to permit the department to determine, with reasonable accuracy, the sum of the fee ~~which accompanied the request for variance~~. For a renewal of an exemption or partial exemption, if no public hearing, environmental impact statement, or appreciable investigation by the department is necessary, ~~or no environmental impact statement is deemed necessary, or if no appreciable investigation of the renewal application is necessary by the department~~, the minimum filing fee shall apply or the fee may be waived by the department. The filing fee shall be deposited in the earmarked revenue fund provided for in

~~section~~ 79-410. It is the intent of the legislature that the revenues derived from the filing fees shall be used by the department:

(a) to compile the information required for rendering a decision on the request~~,~~;

(b) to compile the information necessary for any environmental impact statements~~,~~;

(c) to offset the costs of a public hearing, printing, or mailing; and

(d) to carry out its other responsibilities under this chapter.~~"~~

Section 9. Section 69-3917, R.C.M. 1947, is amended to read as follows:

"69-3917. Hearings and judicial review. (1) No rule and no amendment or repeal thereof ~~shall~~ may take effect except after public hearing on due notice~~,~~ and after the advisory council has been ~~afforded not less than~~ given at least ~~thirty (30)~~ days ~~prior to~~ before publication of the proposed text to comment thereon. ~~Such~~ The notice shall be given by public advertisement not less than ~~twenty (20)~~ or more than ~~thirty (30)~~ days ~~prior to~~ before the date set for ~~such~~ the public hearing.

(2) Nothing in this section ~~shall~~ may be construed to require a hearing ~~prior to~~ before the issuance of an emergency order pursuant to ~~section 12 [69-3915] of this~~

~~act~~.

(3) ~~Any~~ A person aggrieved by ~~any~~ an order of the board or local control authority may apply for rehearing upon one or more of the following grounds, and upon no other grounds:

(a) ~~The~~ the board or local control authority acted without or in excess of its powers;

(b) ~~The~~ the order was procured by fraud;

(c) ~~The~~ the order is contrary to the evidence;

(d) ~~The~~ the applicant has discovered new evidence, material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing; or

(e) ~~Competent~~ competent evidence was excluded to the prejudice of the applicant. The petition must be in such form and filed in such time as the board shall prescribe.

(4) (a) Within ~~thirty (30)~~ days after the application for rehearing is denied~~,~~ or, if the application is granted, within ~~thirty (30)~~ days after the decision on the rehearing, ~~any~~ a party aggrieved thereby may appeal to the district court of ~~any~~ the judicial district of the state which is the situs of property affected by the order.

(b) The appeal shall be taken by serving a written notice of appeal upon the ~~executive officer~~ chairman of the board, which service shall be made by the delivery of a copy of the notice to ~~such officer,~~ the chairman and by filing

the original with the clerk of the court to which the appeal is taken. Immediately ~~upon~~ after service upon the board, the board shall certify to the district court the entire record and proceedings, including all testimony and evidence taken by the board. Immediately upon receiving the certified record, the district court shall fix a day for filing of briefs and hearing arguments on the cause, and shall cause a notice of the same to be served upon the board and the appellant.

(c) The court shall hear and decide the cause upon the record of the board. The court shall determine whether or not the board regularly pursued its authority, whether or not the findings of the board were supported by substantial competent evidence, and whether or not the board made errors of law prejudicial to the appellant.

(5) Either the board ~~[or]~~ the person aggrieved may appeal from the decision of the district court to the supreme court. The proceedings before the supreme court shall be limited to a review of the record of the hearing before the board and of the district court's review of that record."

Section 10. Section 69-4820.1, R.C.N. 1947, is amended to read as follows:

"69-4820.1. Additional ~~enforcement remedies~~ sanctions authorized. (1) In addition to all other remedies created by

this act, the department is authorized to take appropriate enforcement action on its own initiative to:

(a) prevent, abate, and control the pollution of state waters;

(b) prevent, abate, and control any violation of a condition or limitation imposed by a permit issued under ~~section 69-4806, R.C.M. 1947~~ 69-4809.1 (1)(a);

(c) prevent, abate, and control any ~~violations~~ violation of ~~regulations~~ rules relating to pretreatment standards.

(2) In furtherance of subsection (1) ~~of this section~~, ~~any~~ a person violating ~~any~~ a condition, limitation, standard, or other requirement established pursuant to this chapter may be served with a compliance order issued by the department. ~~Such~~ The order must specify the condition, limitation, standard, or other requirement violated and must set a time for compliance. However, in establishing a time for compliance, the department shall take into account the seriousness of the violation and any good faith efforts that have been made to comply with the condition, limitation, standard, or other requirement that has been violated. The compliance order issued under this section shall be personally served by an authorized representative of the department.

(3) The department is authorized to commence a civil

action seeking appropriate relief, including a permanent or temporary injunction, for ~~any~~ a violation which would be subject to a compliance order under subsection (2) ~~of this section~~. ~~Any~~ An action under this subsection may be commenced in the district court of ~~any~~ the county in which the defendant is located or resides or is doing business, and the court shall have jurisdiction to restrain ~~such~~ the violation and to require compliance.

(4) ~~Any~~ A person found to be in violation of a condition, limitation, standard, or other requirement established pursuant to this section shall be subject to the penalty provisions of ~~section 69-4823, R.C.M., 1947~~.

(5) For the purpose of this subsection, the term "person" shall mean, in addition to the definition contained in ~~section 69-4802, R.C.M., 1947~~, any responsible corporate officer."

Section 11. Section 69-4824, R.C.M. 1947, is amended to read as follows:

"69-4824. Emergencies. Notwithstanding any other provisions of this chapter, if the department finds that a person is committing or is about to commit an act in violation of this chapter or an order or rule issued under it which, if it occurs or continues, will cause substantial pollution the harmful effects of which will not be remedied immediately after the commission or cessation of the act,

the department shall order ~~such~~ the person to stop, avoid, or moderate the act so that the substantial injury will not occur. The order shall be effective immediately upon receipt by the person to whom it is directed, unless the department provides otherwise. Notice of the order shall conform to the requirements of ~~section 13 (1) [69-4820 (1)] of this act~~ 69-4820 (1) so far as practicable; the notice shall indicate that the order is an emergency order. Upon issuing such an order, the department shall fix a place and time for a hearing before the board, not later than ~~five (5)~~ days thereafter, unless the person to whom the order is directed shall request a later time. The department may deny a request for a later time if it finds that the person to whom the order is directed is not complying with the order. The hearing shall be conducted in the manner specified in ~~section 13, subsections (4), (5), and (6) [69-4820 (4), (5), (6)] of this act~~ 69-4820. As soon as practicable after the hearing, the board shall affirm, modify, or set aside the order of the department. The order of the board shall be accompanied by the statement specified in ~~section 13 (6) [69-4820 (6)] of this act~~ 69-4820 (5). An action for review of the order of the board may be initiated in the manner specified in ~~section 15 [69-4821] of this act~~ 69-4821. The initiation of such an action or taking of an appeal ~~shall~~ may not stay the effectiveness of the order, unless the

court ~~shall find~~ finds that the board did not have reasonable cause to issue an order under this section."

Section 12. Section 69-5003, R.C.M. 1947, is amended to read as follows:

"69-5003. Approval of plans for facilities in subdivisions. (1) A person may not file a subdivision plat with a county clerk and recorder, make disposition of ~~any~~ a lot within a subdivision, erect ~~any~~ a building or shelter in a subdivision which requires facilities for the supply of water or disposal of sewage or solid waste, or occupy ~~any~~ a permanent building in a subdivision until the department has indicated that the subdivision is subject to no sanitary restriction.

(2) A county clerk and recorder may not accept a subdivision plat for filing until:

(a) the person wishing to file the plat has obtained approval of the local health officer having jurisdiction and has filed the approval with the department; and

(b) the department has indicated by stamp or certificate, that it has approved the plat and plans and specifications and that the subdivision is subject to no sanitary restriction.

(3) When a subdivision as defined in this chapter is excluded from the provisions of ~~Title 11, chapter 38, section~~ 11-3862, ~~R.C.M. 1947,~~ except ~~section~~ 11-3862 (8),

~~R.C.M. 1947,~~ and the subdivision is otherwise subject to the provisions of this chapter, plans and specifications of the ~~subdivisions~~ subdivision shall be submitted to the department, and the department shall indicate by certificate that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction. The plan review by the department shall be as follows:

(a) The developer shall present to the department a preliminary plan of the proposed development and whatever information the developer feels necessary for its subsequent review. Within ~~sixty (60)~~ days of receipt of this submission, ~~based upon its receipt~~ by the department, the department shall notify the developer if the material submitted is satisfactory to determine if sanitary restrictions are necessary and, if not, what additional information is required for subsequent action by the department.

(b) If additional information is necessary to determine if sanitary restrictions are necessary, no further processing will be made on the request until the ~~missing~~ missing information is made available to the department by the developer.

(c) The department must notify the developer within ~~thirty (30)~~ days if his submission of additional requested material is satisfactory. If the material is not

satisfactory, the provision of subsection (b) shall apply.

(d) After the department has notified the developer that ~~they have~~ it has all the necessary information required for review, the department must give final action of the proposed plan within ~~sixty (60)~~ days, unless an environmental impact statement is required, at which time this deadline may be increased to ~~one hundred twenty (120)~~ days.

(4) A person may not construct or use ~~any facilities~~ a facility which ~~deviate~~ deviates from the plans and specifications filed with the department until the department has approved the deviation."

Section 13. Section 69-5602, R.C.M. 1947, is amended to read as follows:

"69-5602. ~~Rules--adoption--by department of health and environmental sciences~~ Department authorized to adopt rules. The department shall adopt rules for ~~construction~~ constructing and operating tourist campgrounds and trailer courts to insure sanitation and protect public health."

Section 14. Section 69-5603, R.C.M. 1947, is amended to read as follows:

"69-5603. License ~~from department~~ required -- inspections. A person operating a tourist campground or trailer court shall:

(1) obtain a license from the department;

(2) permit inspections by state, or local health officers, sanitarians, or other authorized persons at all reasonable times."

Section 15. Section 69-5607, R.C.M. 1947, is amended to read as follows:

"69-5607. Violations ~~and penalty~~ -- penalties -- disposition of fines. ~~Any~~ A person violating ~~any~~ a provision of this chapter or ~~regulation~~ a rule made under it shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ~~fifty dollars ($50) nor~~ or more than ~~one hundred dollars ($100)~~ for the first offense, and not less than ~~seventy-five dollars ($75) nor~~ or more than ~~two hundred dollars ($200)~~ for the second offense; and for the third and subsequent offenses, ~~he shall be punished~~ by a fine of not less than ~~two hundred dollars ($200)~~ and imprisonment in the county jail not to exceed ~~ninety (90)~~ days. Fines shall be paid to the county treasurer of the county in which the tourist campground or trailer court is located. The county treasurer shall send all fines collected to the state treasurer for deposit in the state general fund."

Section 16. Section 69-5803, R.C.M. 1947, is amended to read as follows:

"69-5803. Definitions. (1) "By-product material" means ~~any~~ a radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation

incident to the process of producing or utilizing special nuclear material.

(2) "Ionizing radiation" means gamma rays and ~~x-rays~~ X rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles but not sound or radio waves or visible, infrared, or ~~ultra-violet~~ ultraviolet light.

(3) "General license" means a license effective pursuant to ~~regulations~~ rules promulgated by the department ~~of health and environmental sciences~~ without the filing of an application to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing quantities of by-product, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially. General licenses are effective without the filing of applications with the department ~~of health and environmental sciences~~ or the issuing of licensing documents to the user.

(4) "Specific license" means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing quantities of by-product, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(5) "Person" means ~~any~~ an individual, corporation,

partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States atomic energy commission, any successor thereto, or federal agencies licensed by the atomic energy commission.

(6) "Source material" means uranium, thorium, or any other material which the department ~~of health and environmental sciences~~ or the United States atomic energy commission declares by order to be source material or ores containing one ~~(1)~~ or more of the foregoing materials, in such concentration as the department ~~of health and environmental sciences~~ or the atomic energy commission declares by order to be source material after the atomic energy commission has determined the material in such concentration to be source material.

(7) "Special nuclear material" means plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the department ~~of health and environmental sciences~~ or the United States atomic energy commission, or any successor thereto, declares by order to be special nuclear material or any material artificially enriched by any of the foregoing, but does not include source material.

(8) "Registration" means the registering by the legal

owner, user, or authorized representative with the department ~~of health and environmental sciences in the manner prescribed by rule or regulation~~ of sources of ionizing radiation in the manner prescribed by rule.

(9) "Department" means the department of health and environmental sciences."

Section 17. Section 69-5806, R.C.M. 1947, is amended to read as follows:

"69-5806. Licensing and registration ~~of persons handling radioactive materials or equipment using such materials~~. (1) The department shall provide by rule ~~or regulation~~ for general or specific licensing of persons to receive, possess, or transfer radioactive materials and devices or equipment utilizing such materials. ~~Such~~ The rules ~~or regulations~~ shall provide for amendment, suspension, or revocation of licenses pursuant to ~~section 11 [69-5811] of this act~~ 69-5812.

(2) Each application for a specific license shall be in writing and shall state such information as the department by rule ~~or regulation~~ may determine to be necessary to decide the technical, insurance, and financial qualifications or any other qualification of the applicant as the department ~~may deem~~ considers reasonable and necessary to protect the occupational and public health and safety. The department may, at any time after the filing of

the application and before the expiration of the license, require further written statements and may make such inspections as the department ~~may deem~~ considers necessary in order to determine whether the license should be granted, ~~or~~ denied, ~~or whether the license should be~~ modified, suspended, or revoked. All applications and statements shall be signed by the applicant or licensee. The department may require ~~any applications~~ an application or ~~statements~~ statement to be made under oath or affirmation.

(3) Each license shall be in such form and contain such terms and conditions as the department may by rule ~~or regulation~~ prescribe.

(4) No license issued pursuant to the provisions of this act and no right to possess or utilize sources of ionizing radiation granted by any license ~~shall~~ may be assigned or in any manner disposed of.

(5) The terms and conditions of all licenses shall be subject to amendment, revision, or modification by rules, ~~regulations~~ or orders issued in accordance with the provisions of this act.

(6) The department may require registration and inspection of persons dealing with sources of ionizing radiation which do not require a specific license and may require compliance with specific safety standards to be promulgated by the department.

(7) The department is authorized to exempt certain users from the licensing or registration requirements set forth in this section when the department makes a finding that the exemption of ~~such~~ the users will not constitute a significant risk to the health and safety of the public~~;~~ .

(8) ~~Any~~ A report of investigation or inspection~~,~~ or ~~any~~ information concerning trade secrets or secret industrial processes obtained under this act shall not be disclosed or opened to public inspection except as may be necessary for the performance of the functions of the department~~;~~ .

(9) Rules ~~and regulations~~ promulgated pursuant to this act may provide for recognition of such other state or federal licenses as the department ~~may deem~~ considers desirable, subject to such registration requirements as the department ~~may prescribe~~ prescribes."

Section 18. Section 69-6807, R.C.S., 1947, is amended to read as follows:

"69-6807. Deposit of fees -- special junk vehicle assessment fee. (1) All motor vehicle wrecking facility license fees and fees collected as motor vehicle disposal fees shall be deposited with the state treasurer to be utilized for~~:~~ ~~(a)~~control, collection, and disposal of junk vehicles~~; and~~.

~~(b) to conduct a feasibility study to determine the~~

~~suitability of resource recovery from our solid waste, the cost of which may not exceed two hundred thousand dollars ($200,000), and the results of which will be made available to the public and legislature by 1977.~~

(2) ~~There is assessed a~~ A special junk vehicle disposal fee ~~commencing on July 1, 1973,~~ shall be assessed on each new application for a motor vehicle title and on each transfer of motor vehicle title in the amount of ~~two dollars ($2),~~ on passenger cars and trucks under 8001 pounds GVW~~,~~ ~~which shall be collected by the county treasurer, and commencing with the year 1974, there shall be assessed an~~ An additional special junk vehicle disposal fee shall be assessed in the amount of ~~fifty~~ 50 cents ~~($.50)~~ on each passenger car and truck under 8001 pounds GVW registered for licensing. The ~~fifty cents ($.50) fee~~ fees shall be collected by the county treasurer. However, the following are exempt from payment of the fees:

(a) vehicles leased or owned by the state or by a county or municipality;

(b) vehicles used for transportation by nonresident, migratory workers temporarily employed in agricultural work in this state;

(c) vehicles displaying dealers' license plates, as provided in ~~section~~ 53-122, while owned by a dealer; and

(d) house trailers or equipment which are not

self-propelled or which require towing upon a highway of this state.

(3) The department shall report to each legislature the amount collected under this act and the cost of administration of the act to date so that any necessary adjustment of the amount of the fee may be made to assure that no more than the actual cost of operation of the program is collected.

(4) The department shall pay to a county the amount of the approved junk vehicle collection and graveyard budget of the county. The yearly payment may not exceed ~~one dollar ($1)~~ for each motor vehicle under 8001 pounds GVW that is licensed in that county. However, for those counties that have fewer than ~~five thousand (5,000)~~ such motor vehicles, the department may pay up to ~~five thousand dollars ($5,000)~~, providing the county can justify this payment."

Section 19. Section 69-6811, R.C.M. 1947, is amended to read as follows:

"69-6811. Prohibition. It is unlawful to place junked motor vehicles, or the body portion of junked motor vehicles, between ~~high-water~~ high-water channel banks of any stream or to reinforce banks of a stream with such junked motor vehicle or the body portion of such junked motor vehicles."

Section 20. Repealer. Section 26-339, R.C.M. 1947 is

repealed.

-End-

FORTY-FIFTH LEGISLATIVE SESSION

COMMITTEE ON NATURAL RESOURCES

SENATE BILL NO.	ENTERED COMM. 1977	DATE CONSIDERED 1977	OUT OF COMM. 1977	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
2	Jan 3	1/11 1/13	1/13			1/13/77			
26	" 3	1/11 1/13	1/13	1/13					
110	" 15	1/27	1/27	1/27					
128	" 18	1/25	1/25			1/25/77			
135	" 18	1/25	1/25			1/25/77			
235	Feb 3	2/15	2/19		AS AMEND. 2/19/77				
241	Jan 31	2/5/77	2/12			2/12/77			
247	Jan 24	2/12	2/16			2/16/77			
257	Jan 31	2/5	2/12						
268	Jan 25	2/3	2/3	2/3					
284	Jan 26	2/8	2/16	2/16					
295	Jan 26	2/1	2/16	Tabled					
297	Jan 26	2/3	2/3		2/3/77				
298	Jan 26	2/16	2/16	2/16					
302	Jan 26	2/1 & 2/10	2/12	2/12					
317	Jan 27	2/17	2/19		AS AMEND 2/19/77				
324	Jan 28	2/16	2/16	2/16					

(Use Separate Sheet for Senate, House Bills, and Resolutions)

CONSIDERATION OF SB 2: An Act to generally revise and clarify the laws relating to environmental protection.

Diana Dowling, Director of Legal Services, reviewed Senate Bill No. 2 section by section for the Committee members. (See Attachment #2)

Mr. Bob Biggerstaff, representing Montana Association of Conservation Districts, next appeared as an opponent of Senate Bill No. 2. He stated that they were opposed to Page 1 through Page 5, Line 5, which has to do with Senate Bill 310. He stated he would like to have the Committee hold out on these changes until at least the next Legislative Session. We have a verbal agreement with Fish and Game and want no changes in the law at this session he stated.

Senator Jergeson asked if Mr. Biggerstaff was opposed to changes where it strikes the word. He stated that he was not opposed to any of these changes brought up here, but when this goes through it opens up SB 310 to other changes. We don't think there should be any changes at this time as it is running real smoothly he said.

Senator Devine stated that he didn't see anything that's really that substantive.

Senator Manley said that a decision like this to head off changes in SB 310 by this gentleman and his association and for this Committee to state that we are against this bill would be a little bit premature.

Senator Dover said that he didn't think the Committee had the power to change this. All we can do is correct some wording he said.

Senator Jergeson said that this bill should not be the vehicle used to amend SB 310.

After further discussion Senator Manley said he would like to delay action on this bill until we find out what other legislation there is going to be.

Senator Jergeson said he thought the bill could be acted on today.

Senator Manley said he would like to ask the Committee to delay action until the next meeting on Thursday.

Motion was made by Senator Manley that action on SB 2 be deferred until the next meeting. Senator Roskie seconded the motion and motion carried unanimously.

ROLL CALL

NATURAL RESOURCES COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 1-11-77

NAME	PRESENT	ABSENT	EXCUSED
FLYNN, Elmer, Chairman	✓		
ROSKIE, George, Vice-Chairman	✓		
Devine, John	✓		
Dover, Harold	✓		
Galt, Jack			
Jergeson, Greg	✓		
Manley, John	✓		
Smith, Ed	✓		

NAME: Bob Buggerstaff DATE: 1-11-77

ADDRESS:

PHONE:

REPRESENTING WHOM? Montana Assoc of Conservation Districts

APPEARING ON WHICH PROPOSAL: SB-2

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

(Attachment #2)

HOUSE MEMBERS
ROBERT L. MARKS
CHAIRMAN
FRANCIS BARDANOUVE
OSCAR KVAALEN
PAT MC KITTRICK

ROSE WEBER
EXECUTIVE DIRECTOR
PAMELA DUENSING
ADMINISTRATIVE ASSISTANT
ROBERTA MOODY
SUPERVISOR, ALTER SYSTEM

Montana Legislative Council

State Capitol
Helena, 59601

SENATE MEMBERS
NEIL J. LYNCH
VICE CHAIRMAN
GLEN DRAKE
CARROLL GRAHAM
FRANK HAZELBAKER

DIANA DOWLING
DIRECTOR, LEGAL SERVICES;
CODE COMMISSIONER
ROBERT PERSON
DIRECTOR, RESEARCH

LC0013

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 2

REVISION AND CLARIFICATION OF LAWS RELATING TO ENVIRONMENTAL PROTECTION.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 26-1514. Added "upon" to clarify subsection (8) which said that the supervisors could extend the request rather than the time limit upon the request.

Section 2. 26-1517. In (2) added "of its receipt" in order to specify the beginning of the 5-day time limit. Also deleted "actions" in (4) because the solution is for an emergency, not an emergency action.

Section 3. 32-4728. Grammar changes to make the predicate agree with the singular subject.

Section 4. 69-3911. Deleted "from it" because permits are obtained from the department, not the board.

Section 5. 69-3912. Replaced "it" with "the department" in order to make it clear that it is not "the representative" who requests entry.

Section 6. 69-3914. Added reference to 69-3921.1 because it establishes the civil penalty whereas 69-3921 only authorizes criminal prosecution. When 69-3921.1 was added in 1975, this section should have been amended.

Section 7. 69-3915. Grammatical changes only.

Section 8. 69-3916. In (3) changed "subsection (a)" to "subsection (1)". In (6) deleted repetitive language and deleted "which accompanied the request for variance" because the department must determine the sum of the fee before the fee accompanies the request. As written, the sentence didn't make sense.

Section 9. 69-3917. In (4)(b), replaced "executive officer" (of board of health) with "chairman", as the person served with notice of appeal because there is no executive officer of the board.

Section 10. 69-4820.1. Replaced "69-4806" with "69-4809.1" because 69-4809.1 is the section under which permits are issued. 69-4806 merely lists the activities which may not be performed without permits.

Section 11. 69-4824. Section 69-4820(6) does not specify the statement to accompany the order; it only gives an alternative to issuing an order. Section "69-4820(6)" is changed to "69-4820(5)" which describes the order.

Section 12. 69-5003. "Mission" changed to "missing" in subsection (3)(b) because the sentence made no sense.

Section 13. 69-5602. Changed "construction" to "constructing" to make the section grammatically correct.

Section 14. 69-5603. Added "or" because "state" modifies "health officers". It should read "state or local health officers".

Section 15. 69-5607. Added "he shall be punished" in order to complete the sentence.

Section 16. 69-5803. Added a definition for department because department is used in later sections without specifying which department. Deleted the other references to "of health and environmental science" because the department is now defined.

Section 17. 69-5806. Reference to 69-5811 erroneous. 69-5812 gives the license procedure.

Section 18. 69-6807. Added "junk vehicle collection and graveyard" to explain which county budget is to be paid by the department. Deleted (1)(b) as temporary.

Section 19. 69-6811. Added a phrase to clarify what kind of stream bank reinforcement is prohibited. As it was, the section prohibited all reinforcement of stream banks.

Section 20. 26-339 repealed. Section 26-339 had outdated and incomplete provisions for punishing water pollution violators. The violations are dealt with more stringently in other sections.

MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

January 13, 1977

The second meeting of the Natural Resources Committee was called to order by Vice-Chairman George Roskie, at 9:30 a. m. on the above date in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Elmer Flynn, Chairman.

Mr. Larry Weinberg, Staff Attorney of the Legislative Council was present. Tala Skari, of the Environmental Quality Council, and Mr. Bob Biggerstaff, of the Montana Association of Conservation Districts, were also present.

Senator Roskie asked the Committee what their pleasure was with regard to Senate Bill No. 2 and Senate Bill No. 26 on which action was delayed at the previous meeting.

DISPOSITION OF SB 2: Senator Jergeson said that he thought the Committee could act on Senate Bill No. 2. Senator Jergeson moved that Senate Bill No. 2 be amended as follows: Amend Page 13, Section 8, Line 10, following word "granted" by striking the word "in" and inserting the word "at" to clarify the intent of that section. The motion was seconded by Senator Dover and carried unanimously.

Motion was made by Senator Dover that we accept Senate Bill No. 2 as amended and that the bill AS SO AMENDED, DO PASS. Motion was seconded by Senator Devine and carried unanimously.

Senator Manley added that the recodification of this bill does not have any effect on his problem.

DISPOSITION OF SB 26: Senator Roskie briefly reviewed the previous discussion of this bill.

Mr. Larry Weinberg, Staff Attorney of the Legislative Council, briefly explained the bill further.

Senator Smith said that it looks like something should be done legislative wise instead of recodification.

Senator Galt stated that was his feeling also.

Senator Roskie said that he was inclined to agree.

After further discussion, Senator Smith moved that Senate Bill No. 26 DO PASS. The motion was seconded by Senator Dover and motion carried unanimously.

ROLL CALL

NATURAL RESOURCES COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 1-13-77

NAME	PRESENT	ABSENT	EXCUSED
FLYNN, Elmer, Chairman		✓	
ROSKIE, George, Vice-Chairman	✓		
Devine, John	✓		
Dover, Harold	✓		
Galt, Jack	✓		
Jergeson, Greg	✓		
Manley, John	✓		
Smith, Ed	✓		

STANDING COMMITTEE REPORT

January 13 1977

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration SENATE Bill No. 2

Respectfully report as follows: That SENATE Bill No. 2,

introduced bill, be amended as follows:

1. Amend page 13, section 8, line 10
Following: "granted"
Strike: "in"
Insert: "at"

And, as so amended, DO PASS

DXXAXSX

[redacted] Vice- Chairman.

STATE PUB. CO.
Helena, Mont.

45 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 259	Act to appropriate funds for the study, design, and installation of a solar heating and storage system demonstration project at EMC.	1-Jan.19	Kimble	Feb. 3	DO NOT PASS AS Amended	Feb. 19
SB 2	Revise and clarify the laws relating to env. protection	Jan. 20	Blaylock	March 10	CONCURRED IN	March 10
HB 311	Authorizes the Montana Historical society to establish a program for the preservation of selected ghost towns	Jan. 21	Harper	Jan. 31	DO PASS	Feb. 7
HB 329	Prohibits the hunting of grizzly bears except where human lives or livestock are endangered.	Jan. 21	Kessler	Jan. 31	DO NOT PASS	Jan. 31
HJR 19	Urges allocation of new power generated on dams in Montana to go to Montanans first.	Jan. 24	Curtiss	Feb. 14	BE ADOPTED	Feb. 15
HJR 20	Has to do with the proposed Cabin Creek coal development in Canada.	Jan. 24	Kimble	Feb. 2	DO PASS AS AMENDED	Feb. 21

going in their own direction and maybe this resolution will help us get people working together. Rep. Hurwitz said he was on the group that worked with the Forest Practices Act. He said he made many trips to Missoula and the group tried to be representative of all parts of the industry but met up with a group of local loggers who didn't like it.

Ted Doney in response to a question said the forestry division is the largest division in the DNR, with its main office in Missoula and a $4 million budget for the biennium. Sen. Manley in response to a question on what a scaler is said he is the man who measures the timber and from his measurement the price is determined. Senator Manley said that man is hired by the mill and he felt he should be hired by the state (industry assessed to pay him) similarly as brand inspectors are. Rep. Hurwitz said in his county the forest service does the scaling so they didn't have this conflict. He felt the presently used scribner decimal system should be changed.

Chairman Shelden mentioned the problems rest primarily with the small owners as the industries are doing a good job of managing their timber.

SB 2 DIANA DOWLING, Legislative Council, introduced the bill for Senator Blaylock, the chief sponsor. She said it is another of those recodification bills. She went through the bill pointing out where changes had been made to clarify. She said there were no substantive changes.

There were no proponents, no opponents, and no questions from the committee.

Chairman Shelden opened the meeting to a consideration of the following bills:

SENATE BILL 2

Rep. Burnett moved the bill be concurred in. Motion carried unanimously with those present (absent were Reps. Quilici, Nathe, Huennekens, Bengtson, Hirsch and Frates).

SENATE JOINT RESOLUTION 23

Rep. Davis moved the bill be concurred in. Motion caried unanimously with the same absent as above bill.

SENATE JOINT RESOLUTION 4

Rep. Hurwitz said he had worked hard on the Forest Practices Act and was disheartened to see how it ended. He said it was hard for him to understand why these local people were so opposed to it. He mentioned the proposed committee would be a sizeable one and might be a bit difficult to get something done that would be meaningful. He said this study wouldn't be worth a dime unless they went directly to the grass roots people. Chairman Shelden said one of the problems is that the loggers are not organized and it is difficult to reach them. He said an alternative he had heard suggested was to develop an extenstion system out of the state forestry office.

SENATE BILL NO. 2

INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO ENVIRONMENTAL PROTECTION; AMENDING SECTIONS 26-1514, 26-1517, 32-4728, 69-3911, 69-3912, 69-3914, 69-3915, 69-3916, 69-3917, 69-4820.1, 69-4824, 69-5003, 69-5602, 69-5603, 69-5607, 69-5803, 69-5806, 69-6807, AND 69-6811, R.C.M. 1947; AND REPEALING SECTION 26-339, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 26-1514, R.C.M. 1947, is amended to read as follows:

"26-1514. Procedure for considering projects -- team. (1) The supervisors shall receive all notices of proposed projects within their district. They shall, within ~~five (5)~~ days of receipt of a notice, examine and investigate the notice and determine whether the proposal is for a project. ~~They~~ Within the 5 days, they shall~~, within such period,~~ send a copy of their determination to the department and the applicant. If the supervisors determine that the proposal is not a project, the applicant may, upon receipt of written notice, proceed with the proposed activity.

(2) If the supervisors determine that the proposal is for a project, the department shall, within ~~five (5)~~ days of receipt of ~~such~~ the determination, notify the supervisors whether the department requests an on-site inspection by a team.

(3) The supervisors shall call a team together within ~~twenty (20)~~ days of receipt of the request of the department for an on-site inspection. ~~Any~~ A member of the team shall notify the supervisors in writing, within ~~five (5)~~ days after notice of the call for an inspection, of his waiver of participation in the inspection. If the department does not request an on-site inspection within the time specified above, the supervisors may deny or approve the project or may make recommendations for alternative plans.

(4) Each member of the team shall recommend, in writing, within ~~fifty (50)~~ days of the date of application, denial, approval, or modification of the project to the supervisors. The applicant may waive participation in this recommendation.

(5) The supervisors shall review the proposed project and affirm, overrule, or modify the individual team recommendations, and notify the applicant and team members, within ~~sixty (60)~~ days of the date of application, of their decision.

(6) When a member of the team disagrees with the supervisors' action, he may ask, within ~~five (5)~~ days of

REFERENCE BILL

receipt of the supervisors' decision, that an arbitration panel, as provided in ~~section~~ 26-1515, be appointed to hear the dispute and make a final written decision thereon.

(7) Upon written notice, with ~~any~~ a recommendation or alternative plan, by the supervisors to the applicant, the applicant, within ~~fifteen--(15)~~ days, shall notify the supervisors in writing if he wishes to proceed with the project in accordance with the recommendations or alternative plans. No work may be commenced on a project ~~prior to~~ before the ~~expiration~~ end of this ~~fifteen-(15)~~ -day period unless written permission is given by all team members. If the written decision of the supervisors approves the proposed project without recommendation or alternative plan, the applicant may proceed with the project upon the expiration of ~~ten-(10)~~ days after receipt of the decision.

(8) The supervisors may extend, upon the request of ~~any~~ a team member, the time limits provided in ~~section 26-1514~~ subsections (4) and (5) where, in their determination, the time provided is not sufficient to carry out the purposes of this act. The time extension may not, in total, exceed ~~one-(1)~~ year from date of application. The applicant shall be notified, within ~~sixty-(60)~~ days of date of application, of the initial time extension and shall be notified immediately of any subsequent time extensions.

(9) No work on a project under this act may take place

without the written consent of the supervisors."

Section 2. Section 26-1517, R.C.M. 1947, is amended to read as follows:

"26-1517. Emergencies -- procedure. (1) The provisions of this act ~~shall~~ do not apply to those actions which are necessary to safeguard life or property, including growing crops, during periods of emergency. The person responsible for ~~any~~ a project under this section shall notify the supervisors in writing within ~~fifteen--(15)~~ days of the action taken as a result of an emergency.

(2) The supervisors shall send one ~~(1)~~ copy of the notice, within ~~five--(5)~~ days of its receipt, to the department.

(3) A team, called together as described in ~~section~~ 26-1514 (3), shall make an on-site inspection and individual written reports to the supervisors within ~~thirty-(30)~~ days giving their observations and opinions on the emergency project.

(4) If the same or a similar emergency occurs to the same applicant more than once within ~~any~~ a ~~five--(5)~~ -year period, the supervisors shall request the team members to include in their reports a determination of the validity of the emergency action and to ascertain the feasibility of a more permanent solution to ~~that~~ the emergency ~~action~~.

(5) The supervisors shall determine the feasibility of

a more permanent solution and shall recommend, within ~~thirty--(30)~~ days, that the person put the solution into effect within a reasonable period of time, as determined by the supervisors. Failure of the person to put that solution into effect is not a violation of this act unless a subsequent emergency action results from this failure.

(6) When a member of the team or the applicant disagrees with the supervisors' recommendation, he may ask that an arbitration panel, as provided in ~~section~~ 26-1515, be appointed to hear the dispute and make a final written decision thereon."

Section 3. Section 32-4728, R.C.M. 1947, is amended to read as follows:

"32-4728. Nonconforming advertising as nuisance. All outdoor advertising which does not conform to the requirements of this act ~~are~~ is a public ~~nuisances~~ nuisance."

Section 4. Section 69-3911, R.C.M. 1947, is amended to read as follows:

"69-3911. Permits. (1) The board may, by rule ~~or regulations~~, prohibit the construction, installation, alteration, or use of ~~any~~ a machine, equipment, device, or facility which it finds may directly or indirectly cause or contribute to air pollution or which is intended primarily to prevent or control the emission of air pollutants, unless

a permit therefor has been obtained ~~from it~~.

(2) Not later than ~~one-hundred-eighty-(180)~~ days ~~prior to the time that~~ before construction begins and not later than ~~one-hundred-twenty-(120)~~ days ~~prior to the time that~~ before installation, alteration, or use ~~commences~~ begins, the owner or operator shall file with the department the appropriate permit application on forms available from the department.

(3) ~~Notwithstanding anything contained in subsection (2), the~~ The department may, for good cause shown, waive the provisions of subsection (2) or shorten the time required for filing the appropriate applications.

(4) The department shall require that applications for permits be accompanied by any plans, specifications, and other information it ~~deems~~ considers necessary.

(5) An application is not considered filed until the applicant has submitted all information and completed all application forms required by subsections (2), (3), and (4). However, if the department fails to notify the applicant in writing, within ~~thirty-(30)~~ days after the purported filing of an application, that the application is incomplete and fails to list the reasons why the application is considered incomplete, the application is considered filed as of the date of the purported filing.

(6) The department shall provide for the issuance,

suspension, revocation, and renewal of ~~any permits~~ a permit issued under this section.

(7) Where an application for a permit requires the compilation of an environmental impact statement under the Montana Environmental Policy Act, the department shall notify the applicant in writing, within ~~one hundred eighty (180)~~ days of the receipt of a filed application as defined in subsection (5), ~~in writing,~~ of the approval or denial of the application. However, where an application does not require the compilation of an environmental impact statement, the department shall notify the applicant in writing, within ~~sixty (60)~~ days of the receipt of a filed application, as defined in subsection (5), ~~in writing,~~ of the approval or denial of the application.

(8) When the department approves or denies the application for a permit under this section, ~~any~~ a person ~~or persons~~ who is jointly or severally adversely affected by the department's decision may request, within ~~fifteen (15)~~ days after the department renders its decision, upon affidavit, setting forth the grounds therefor, a hearing before the board. A hearing shall be held under the provisions of the Montana Administrative Procedure Act. The department's decision on the application is not final unless ~~fifteen (15)~~ days have elapsed and there is no request for a hearing under this section. The filing of a request for a

hearing postpones the effective date of the department's decision until the conclusion of the hearing and issuance of a final decision by the board."

Section 5. Section 69-3912, R.C.M. 1947, is amended to read as follows:

"69-3912. Inspections. (1) The department may enter and inspect, at any reasonable time, any property, premises, or place, except a private residence, on or at which an air contaminant source is located or is being constructed or installed for the purpose of ascertaining the state of compliance with this act and rules in force under it.

(2) A person may not refuse entry or access to an authorized representative of the department who presents appropriate credentials when ~~it~~ the department requests entry for purposes of inspection~~, and who presents appropriate credentials~~. A person may not obstruct, hamper, or interfere with an inspection.

(3) At his request, the owner or operator of the premises shall receive a report ~~setting forth~~ stating all facts found which relate to compliance status."

Section 6. Section 69-3914, R.C.M. 1947, is amended to read as follows:

"69-3914. Enforcement. (1) When the department ~~has reason to believe~~ believes that a violation of this act or a rule made under it has occurred, it may cause written notice

to be served on the alleged violator. The notice shall specify the provision of this act or rule alleged to be violated, and the facts alleged to constitute a violation, and may include an order to take necessary corrective action within a reasonable period of time stated in the order. The order becomes final unless, within ~~no later than thirty (30)~~ days after ~~the date~~ the notice is received, the person named requests in writing a hearing before the board. On receipt of the request, the board shall hold a hearing.

(2) If, after a hearing held under subsection (1) of this section, the board finds that violations have occurred, it shall either affirm or modify an order previously issued, or issue an appropriate order for the prevention, abatement, or control of the emissions involved or for the taking of other corrective action it considers appropriate. If, after hearing on an order contained in a notice, the board finds that no violation is occurring, it shall rescind the order. An order issued as part of a notice or after a hearing may prescribe the date by which the violation shall cease and may prescribe time limits for particular action in preventing, abating, or controlling the emissions.

(3) Instead of issuing the order provided for in subsection (1) ~~of this section~~, the department may either:

(a) ~~Require~~ require that the alleged violators appear before the board for a hearing at a time and place specified

in the notice, and answer the charges complained of; or

(b) ~~Initiate~~ initiate action under ~~section~~ 69-3921 or 69-3921.1.

(4) This chapter does not prevent the board or department from making efforts to obtain voluntary compliance through warning, conference, or any other appropriate means.

(5) In connection with a hearing held under this section, the board may, and on application by a party shall, compel the attendance of witnesses and the production of evidence on behalf of the parties."

Section 7. Section 69-3915, R.C.M. 1947, is amended to read as follows:

"69-3915. Emergency procedure. (1) Any other law to the contrary notwithstanding, if the department finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the department shall order persons causing or contributing to the air pollution to immediately reduce or discontinue ~~immediately~~ the emission of air contaminants. Upon issuance of this order, the department shall fix a place and time within ~~not later than twenty-four (24)~~ hours ~~thereafter~~, for a hearing to be held before the board. ~~Not more than twenty-four~~ Within (24) hours after the commencement of the hearing, and without

adjournment, the board shall affirm, modify, or set aside the order of the department.

(2) In the absence of a generalized condition such as that referred to in subsection (1) ~~of this section~~, if the department finds that emissions from the operation of one ~~(1)~~ or more air contaminant sources ~~is~~ are causing imminent danger to human health or safety, it may order the person ~~or persons~~ responsible for the operation ~~or operations~~ in question to reduce or discontinue emissions immediately, without regard for ~~section~~ 69-3914. In this event, the requirements for hearing, and affirmance, modification, or setting aside of orders ~~set forth~~ as provided in subsection (1) ~~of this section~~ apply.

(3) This section does not limit any power which the governor or any other officer may have to declare an emergency and act on the basis of this declaration, whether the power is conferred by statute, or constitutional provisions, or inheres in the office."

Section 8. Section 69-3916, R.C.M. 1947, is amended to read as follows:

"69-3916. Variances -- filing fees. (1) ~~Any~~ A person who owns or is in control of ~~any~~ a plant, building, structure, process, or equipment may apply to the board for an exemption or partial exemption from rules ~~or regulations~~ governing the quality, nature, duration, or extent of

emissions of air pollutants. The application shall be accompanied by such information and data as the board may require. The board may grant ~~such~~ an exemption or partial exemption if it finds that:

(a) ~~The~~ the emissions occurring or proposed to occur do not constitute a danger to public health or safety; and

(b) ~~Compliance~~ compliance with the rules or ~~regulations~~ from which exemption is sought would produce hardship without equal or greater benefits to the public.

(2) No exemption or partial exemption ~~shall~~ may be granted pursuant to this section except after public hearing on due notice and until the board has considered the relative interests of the applicant, other owners or property likely to be affected by the emissions, and the general public.

(3) No exemption or partial exemption pursuant to this section ~~shall~~ may be granted for a period to exceed ~~one (1)~~ year, but ~~any such~~ the exemption or partial exemption may be renewed for like periods if no complaint is made to the board ~~on account thereof~~ because of it or if, ~~such~~ after the complaint ~~having~~ has been made and duly considered at a public hearing held by the board on due notice, the board finds that renewal is justified. No renewal ~~shall~~ may be granted except on application therefor. ~~Any such~~ An application shall be made at least ~~sixty (60)~~ days ~~prior to~~

before the expiration of the exemption or partial exemption. Immediately ~~prior to~~ before application for renewal the applicant shall give public notice of ~~such~~ his application in accordance with rules ~~and regulations~~ of the board. ~~Any~~ A renewal pursuant to this subsection shall be on the same grounds and subject to the same limitations and requirements as provided in subsection ~~(1) (a) of this section~~.

(4) An exemption, partial exemption, or renewal thereof ~~shall~~ is not be a right of the applicant or holder thereof but shall be granted ~~in~~ at the discretion of the board. However, ~~any~~ a person adversely affected by an exemption, partial exemption, or renewal granted by the board may obtain judicial review thereof as provided by ~~section~~ 69-3917 ~~of this act~~.

(5) Nothing in this section and no exemption, partial exemption, or renewal granted pursuant ~~hereto shall~~ to this section may be construed to prevent or limit the application of the emergency provisions and procedures of ~~section~~ 69-3915 ~~of this act~~ to ~~any~~ a person or his property.

(6) ~~Any~~ A person who owns or is in control of ~~any~~ a plant, building, structure, process, or equipment (hereinafter called a facility) who applies to the board for an exemption or partial exemption or a renewal of an exemption or partial exemption from ~~any~~ a rule governing the quality, nature, duration, or extent of emissions of air

pollutants shall submit with the application for variance a sum of not less than ~~five hundred dollars ($500)~~ or ~~two percent (2%)~~ of the cost of the equipment to bring the facility into compliance with the rule~~(s)~~ for which a variance is sought, whichever is greater, but not to exceed ~~eighty thousand dollars ($80,000)~~. The department shall prepare a statement of actual costs, and ~~any~~ funds in excess of this shall be returned to the applicant. ~~The value of any fee in excess of five hundred dollars ($500) shall be calculated by determining the cost of the equipment required to bring the facility into compliance with the rule(s) for which the variance is being sought.~~ The person requesting the variance shall describe the facility in sufficient detail, with accompanying estimates of cost and verifying materials, to permit the department to determine, with reasonable accuracy, the sum of the fee ~~which accompanied the request for variance~~. For a renewal of an exemption or partial exemption, if no public hearing, environmental impact statement, or appreciable investigation by the department is necessary, ~~or no environmental impact statement is deemed necessary, or if no appreciable investigation of the renewal application is necessary by the department~~, the minimum filing fee shall apply or the fee may be waived by the department. The filing fee shall be deposited in the earmarked revenue fund provided for in

~~section~~ 79-410. It is the intent of the legislature that the revenues derived from the filing fees shall be used by the department:

(a) to compile the information required for rendering a decision on the request;~~,~~ ~~i~~

(b) to compile the information necessary for any environmental impact statements;~~,~~ ~~i~~

(c) to offset the costs of a public hearing, printing, or mailing; and

(d) to carry out its other responsibilities under this chapter."

Section 9. Section 69-3917, R.C.M. 1947, is amended to read as follows:

"69-3917. Hearings and judicial review. (1) No rule and no amendment or repeal thereof ~~shall~~ may take effect except after public hearing on due notice, and after the advisory council has been ~~afforded not less than~~ given at least ~~thirty (30)~~ days ~~prior to~~ before publication of the proposed text to comment thereon. ~~Such~~ The notice shall be given by public advertisement not less than ~~twenty (20)~~ or more than ~~thirty (30)~~ days ~~prior to~~ before the date set for ~~such~~ the public hearing.

(2) Nothing in this section ~~shall~~ may be construed to require a hearing ~~prior to~~ before the issuance of an emergency order pursuant to ~~section 12 [69-3915] of this~~

act.

(3) ~~Any~~ A person aggrieved by ~~any~~ an order of the board or local control authority may apply for rehearing upon one or more of the following grounds, and upon no other grounds:

(a) ~~The~~ the board or local control authority acted without or in excess of its powers;

(b) ~~The~~ the order was procured by fraud;

(c) ~~The~~ the order is contrary to the evidence;

(d) ~~The~~ the applicant has discovered new evidence, material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing; or

(e) ~~Competent~~ competent evidence was excluded to the prejudice of the applicant. The petition must be in such form and filed in such time as the board shall prescribe.

(4) (a) Within ~~thirty (30)~~ days after the application for rehearing is denied, or, if the application is granted, within ~~thirty (30)~~ days after the decision on the rehearing, ~~any~~ a party aggrieved thereby may appeal to the district court of ~~any~~ the judicial district of the state which is the situs of property affected by the order.

(b) The appeal shall be taken by serving a written notice of appeal upon the ~~executive officer~~ chairman of the board, which service shall be made by the delivery of a copy of the notice to ~~such officer,~~ the chairman and by filing

the original with the clerk of the court to which the appeal is taken. Immediately ~~upon~~ after service upon the board, the board shall certify to the district court the entire record and proceedings, including all testimony and evidence taken by the board. Immediately upon receiving the certified record, the district court shall fix a day for filing of briefs and hearing arguments on the cause, and shall cause a notice of the same to be served upon the board and the appellant.

(c) The court shall hear and decide the cause upon the record of the board. The court shall determine whether or not the board regularly pursued its authority, whether or not the findings of the board were supported by substantial competent evidence, and whether or not the board made errors of law prejudicial to the appellant.

(5) Either the board ~~for~~ the person aggrieved may appeal from the decision of the district court to the supreme court. The proceedings before the supreme court shall be limited to a review of the record of the hearing before the board and of the district court's review of that record."

Section 10. Section 69-4820.1, R.C.M. 1947, is amended to read as follows:

"69-4820.1. Additional ~~enforcement remedies~~ sanctions authorized. (1) In addition to all other remedies created by

this act, the department is authorized to take appropriate enforcement action on its own initiative to:

(a) prevent, abate, and control the pollution of state waters;

(b) prevent, abate, and control any violation of a condition or limitation imposed by a permit issued under ~~section 69-4806, R.C.M. 1947~~ 69-4809.1 (1)(a);

(c) prevent, abate, and control any ~~violations~~ violation of ~~regulations~~ rules relating to pretreatment standards.

(2) In furtherance of subsection (1) ~~of this section, any~~ a person violating ~~any~~ a condition, limitation, standard, or other requirement established pursuant to this chapter may be served with a compliance order issued by the department. ~~Such~~ The order must specify the condition, limitation, standard, or other requirement violated and must set a time for compliance. However, in establishing a time for compliance, the department shall take into account the seriousness of the violation and any good faith efforts that have been made to comply with the condition, limitation, standard, or other requirement that has been violated. The compliance order issued under this section shall be personally served by an authorized representative of the department.

(3) The department is authorized to commence a civil

action seeking appropriate relief, including a permanent or temporary injunction, for ~~any~~ a violation which would be subject to a compliance order under subsection (2) ~~of this section~~. ~~Any~~ An action under this subsection may be commenced in the district court of ~~any~~ the county in which the defendant is located or resides or is doing business, and the court shall have jurisdiction to restrain ~~such~~ the violation and to require compliance.

(4) ~~Any~~ A person found to be in violation of a condition, limitation, standard, or other requirement established pursuant to this section shall be subject to the penalty provisions of ~~section 69-4823, R.C.M. 1947~~.

(5) For the purpose of this subsection, the term "person" shall mean, in addition to the definition contained in ~~section~~ 69-4802, ~~R.C.M. 1947~~, any responsible corporate officer."

Section 11. Section 69-4824, R.C.M. 1947, is amended to read as follows:

"69-4824. Emergencies. Notwithstanding any other provisions of this chapter, if the department finds that a person is committing or is about to commit an act in violation of this chapter or an order or rule issued under it which, if it occurs or continues, will cause substantial pollution the harmful effects of which will not be remedied immediately after the commission or cessation of the act,

the department shall order ~~such~~ the person to stop, avoid, or moderate the act so that the substantial injury will not occur. The order shall be effective immediately upon receipt by the person to whom it is directed, unless the department provides otherwise. Notice of the order shall conform to the requirements of ~~section 13 (1) [69-4820 (1)] of this act~~ 69-4820 (1) so far as practicable; the notice shall indicate that the order is an emergency order. Upon issuing such an order, the department shall fix a place and time for a hearing before the board, not later than ~~five (5)~~ days thereafter, unless the person to whom the order is directed shall request a later time. The department may deny a request for a later time if it finds that the person to whom the order is directed is not complying with the order. The hearing shall be conducted in the manner specified in ~~section 13, subsections (4), (5), and (6) [69-4820 (4), (5), (6)] of this act~~ 69-4820. As soon as practicable after the hearing, the board shall affirm, modify, or set aside the order of the department. The order of the board shall be accompanied by the statement specified in ~~section 13 (6) [69-4820 (6)] of this act~~ 69-4820 (5). An action for review of the order of the board may be initiated in the manner specified in ~~section 15 [69-4821] of this act~~ 69-4821. The initiation of such an action or taking of an appeal ~~shall~~ may not stay the effectiveness of the order, unless the

court ~~shall--find~~ finds that the board did not have reasonable cause to issue an order under this section."

Section 12. Section 69-5003, R.C.M. 1947, is amended to read as follows:

"69-5003. Approval of plans for facilities in subdivisions. (1) A person may not file a subdivision plat with a county clerk and recorder, make disposition of ~~any~~ a lot within a subdivision, erect ~~any~~ a building or shelter in a subdivision which requires facilities for the supply of water or disposal of sewage or solid waste, or occupy ~~any~~ a permanent building in a subdivision until the department has indicated that the subdivision is subject to no sanitary restriction.

(2) A county clerk and recorder may not accept a subdivision plat for filing until:

(a) the person wishing to file the plat has obtained approval of the local health officer having jurisdiction and has filed the approval with the department; and

(b) the department has indicated by stamp or certificate, that it has approved the plat and plans and specifications and that the subdivision is subject to no sanitary restriction.

(3) When a subdivision as defined in this chapter is excluded from the provisions of ~~Title--11,--chapter--38,~~ ~~section~~ 11-3862, ~~R.C.M.--1947,~~ except ~~section~~ 11-3862 (8), ~~R.C.M.--1947,~~ and the subdivision is otherwise subject to the provisions of this chapter, plans and specifications of the ~~subdivisions~~ subdivision shall be submitted to the department, and the department shall indicate by certificate that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction. The plan review by the department shall be as follows:

(a) The developer shall present to the department a preliminary plan of the proposed development and whatever information the developer feels necessary for its subsequent review. Within ~~sixty--(60)~~ days of receipt of this submission, ~~--based--upon--its--receipt~~ by the department, the department shall notify the developer if the material submitted is satisfactory to determine if sanitary restrictions are necessary and, if not, what additional information is required for subsequent action by the department.

(b) If additional information is necessary to determine if sanitary restrictions are necessary, no further processing will be made on the request until the ~~mission~~ missing information is made available to the department by the developer.

(c) The department must notify the developer within ~~thirty--(30)~~ days if his submission of additional requested material is satisfactory. If the material is not

satisfactory, the provision of subsection (b) shall apply.

(d) After the department has notified the developer that ~~they have~~ it has all the necessary information required for review, the department must give final action of the proposed plan within ~~sixty (60)~~ days, unless an environmental impact statement is required, at which time this deadline may be increased to ~~one hundred twenty (120)~~ days.

(4) A person may not construct or use ~~any facilities~~ a facility which ~~deviate~~ deviates from the plans and specifications filed with the department until the department has approved the deviation."

Section 13. Section 69-5602, R.C.M. 1947, is amended to read as follows:

"69-5602. ~~Rules--adoption by department of health and environmental sciences~~ Department authorized to adopt rules. The department shall adopt rules for ~~construction~~ constructing and operating tourist campgrounds and trailer courts to insure sanitation and protect public health."

Section 14. Section 69-5603, R.C.M. 1947, is amended to read as follows:

"69-5603. License ~~from--department~~ required -- inspections. A person operating a tourist campground or trailer court shall:

(1) obtain a license from the department;

(2) permit inspections by state, or local health officers, sanitarians, or other authorized persons at all reasonable times."

Section 15. Section 69-5607, R.C.M. 1947, is amended to read as follows:

"69-5607. Violations ~~and--penalty~~ -- penalties -- disposition of fines. ~~Any~~ A person violating ~~any~~ a provision of this chapter or ~~regulation~~ a rule made under it shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ~~fifty dollars ($50)~~ ~~nor~~ or more than ~~one hundred dollars ($100)~~ for the first offense, and not less than ~~seventy-five dollars ($75)~~ ~~nor~~ or more than ~~two hundred dollars ($200)~~ for the second offense; and for the third and subsequent offenses, he shall be punished by a fine of not less than ~~two hundred dollars ($200)~~ and imprisonment in the county jail not to exceed ~~ninety (90)~~ days. Fines shall be paid to the county treasurer of the county in which the tourist campground or trailer court is located. The county treasurer shall send all fines collected to the state treasurer for deposit in the state general fund."

Section 16. Section 69-5803, R.C.M. 1947, is amended to read as follows:

"69-5803. Definitions. (1) "By-product material" means ~~any~~ a radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation

incident to the process of producing or utilizing special nuclear material.

(2) "Ionizing radiation" means gamma rays and ~~x-rays~~ X rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles but not sound or radio waves or visible, infrared, or ~~ultra-violet~~ ultraviolet light.

(3) "General license" means a license effective pursuant to ~~regulations~~ rules promulgated by the department ~~of--health--and-environmental-sciences~~ without the filing of an application to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing quantities of by-product, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially. General licenses are effective without the filing of applications with the department ~~of-health-and-environmental-sciences~~ or the issuing of licensing documents to the user.

(4) "Specific license" means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing quantities of by-product, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(5) "Person" means ~~any~~ an individual, corporation,

partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States atomic energy commission, any successor thereto, or federal agencies licensed by the atomic energy commission.

(6) "Source material" means uranium, thorium, or any other material which the department ~~of--health--and-environmental-sciences~~ or the United States atomic energy commission declares by order to be source material or ores containing one ~~(1)~~ or more of the foregoing materials, in such concentration as the department ~~of--health--and-environmental--sciences~~ or the atomic energy commission declares by order to be source material after the atomic energy commission has determined the material in such concentration to be source material.

(7) "Special nuclear material" means plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the department ~~of-health-and-environmental-sciences~~ or the United States atomic energy commission, or any successor thereto, declares by order to be special nuclear material or any material artificially enriched by any of the foregoing, but does not include source material.

(8) "Registration" means the registering by the legal

owner, user, or authorized representative with the department ~~of--health--and--environmental--sciences--in--the manner--prescribed--by--rule--or--regulation~~ of sources of ionizing radiation in the manner prescribed by rule.

(9) "Department" means the department of health and environmental sciences."

Section 17. Section 69-5806, R.C.M. 1947, is amended to read as follows:

"69-5806. Licensing and registration ~~of---persons handling--radioactive--materials--or--equipment--using--such materials~~. (1) The department shall provide by rule ~~or regulation~~ for general or specific licensing of persons to receive, possess, or transfer radioactive materials and devices or equipment utilizing such materials. ~~Such~~ The rules ~~or---regulations~~ shall provide for amendment, suspension, or revocation of licenses pursuant to ~~section 11 [69-5811] of this act~~ 69-5812.

(2) Each application for a specific license shall be in writing and shall state such information as the department by rule ~~or--regulation~~ may determine to be necessary to decide the technical, insurance, and financial qualifications or any other qualification of the applicant as the department ~~may--deem~~ considers reasonable and necessary to protect the occupational and public health and safety. The department may, at any time after the filing of

the application and before the expiration of the license, require further written statements and may make such inspections as the department ~~may deem~~ considers necessary in order to determine whether the license should be granted, ~~or~~ denied, ~~or--whether--the--license--should--be~~ modified, suspended, or revoked. All applications and statements shall be signed by the applicant or licensee. The department may require ~~any--applications~~ an application or ~~statements~~ statement to be made under oath or affirmation.

(3) Each license shall be in such form and contain such terms and conditions as the department may by rule ~~or regulation~~ prescribe.

(4) No license issued pursuant to the provisions of this act and no right to possess or utilize sources of ionizing radiation granted by any license ~~shall~~ may be assigned or in any manner disposed of.

(5) The terms and conditions of all licenses shall be subject to amendment, revision, or modification by rules, ~~regulations~~ or orders issued in accordance with the provisions of this act.

(6) The department may require registration and inspection of persons dealing with sources of ionizing radiation which do not require a specific license and may require compliance with specific safety standards to be promulgated by the department.

(7) The department is authorized to exempt certain users from the licensing or registration requirements set forth in this section when the department makes a finding that the exemption of ~~such~~ the users will not constitute a significant risk to the health and safety of the public~~;~~ .

(8) ~~Any~~ A report of investigation or inspection~~,~~ or ~~any~~ information concerning trade secrets or secret industrial processes obtained under this act shall not be disclosed or opened to public inspection except as may be necessary for the performance of the functions of the department~~;~~ .

(9) Rules ~~and regulations~~ promulgated pursuant to this act may provide for recognition of ~~such~~ other state or federal licenses as the department ~~may deem~~ considers desirable, subject to such registration requirements as the department ~~may prescribe~~ prescribes."

Section 18. Section 69-6807, R.C.M. 1947, is amended to read as follows:

"69-6807. Deposit of fees -- special junk vehicle assessment fee. (1) All motor vehicle wrecking facility license fees and fees collected as motor vehicle disposal fees shall be deposited with the state treasurer to be utilized for~~:~~ ~~(a)~~control, collection, and disposal of junk vehicles~~;~~ ~~and~~.

~~(b) to conduct a feasibility study to determine the~~

~~suitability of resource recovery from our solid waste, the cost of which may not exceed two hundred thousand dollars ($200,000), and the results of which will be made available to the public and legislature by 1977.~~

(2) ~~There is assessed a~~ A special junk vehicle disposal fee ~~commencing on July 1, 1973,~~ shall be assessed on each new application for a motor vehicle title and on each transfer of motor vehicle title in the amount of ~~two dollars ($2),~~ on passenger cars and trucks under 8001 pounds GVW~~,~~ ~~which shall be collected by the county treasurer, and commencing with the year 1974, there shall be assessed an~~ An additional special junk vehicle disposal fee shall be assessed in the amount of ~~fifty~~ 50 cents ~~($.50)~~ on each passenger car and truck under 8001 pounds GVW registered for licensing. The ~~fifty cents ($.50) fee~~ fees shall be collected by the county treasurer. However, the following are exempt from payment of the fees:

(a) vehicles leased or owned by the state or by a county or municipality;

(b) vehicles used for transportation by nonresident, migratory workers temporarily employed in agricultural work in this state;

(c) vehicles displaying dealers' license plates, as provided in ~~section~~ 53-122, while owned by a dealer; and

(d) house trailers or equipment which are not

self-propelled or which require towing upon a highway of this state.

(3) The department shall report to each legislature the amount collected under this act and the cost of administration of the act to date so that any necessary adjustment of the amount of the fee may be made to assure that no more than the actual cost of operation of the program is collected.

(4) The department shall pay to a county the amount of the approved junk vehicle collection and graveyard budget of the county. The yearly payment may not exceed ~~one-dollar~~ ~~($1)~~ for each motor vehicle under 8001 pounds GVW that is licensed in that county. However, for those counties that have fewer than ~~five-thousand-(5,000)~~ such motor vehicles, the department may pay up to ~~five-thousand-dollars-($5,000)~~, providing the county can justify this payment."

Section 19. Section 69-6811, R.C.M. 1947, is amended to read as follows:

"69-6811. Prohibition. It is unlawful to place junked motor vehicles, or the body portion of junked motor vehicles, between ~~high-water~~ high-water channel banks of any stream or to reinforce banks of a stream with such junked motor vehicle or the body portion of such junked motor vehicles."

Section 20. Repealer. Section 26-339, R.C.M. 1947 is

repealed.

-End-